Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

TRUST BOARD
27th January 2011

TITLE	**Compliance Framework Procedure**
EXECUTIVE SUMMARY	Monitor uses a 'trust based' regulatory framework based on a philosophy of 'no surprises' and open communication. The Compliance Framework covers three aspects: 1. The Annual Plan review 2. In year monitoring 3. Escalation and intervention This document sets out the approach to be adopted by Ashford and St Peter's Hospitals NHS Foundation Trust to ensure compliance.
BOARD ASSURANCE (RISK)/ IMPLICATIONS	As an authorised Foundation Trust the Board needs to be confident that robust arrangements are in place to ensure 1) Compliance with the Terms of its Authorisation and 2) Compliance with the requirements of Monitor's Compliance Framework
STAKEHOLDER/ PATIENT IMPACT AND VIEWS	None taken
EQUALITY AND DIVERSITY ISSUES	None known
LEGAL ISSUES	None known
The Trust Board is asked to:	Approve the Framework. This will be updated in the light of the revised Compliance Framework 2011-12, when published by Monitor.
Submitted by:	Jane Gear Head of Corporate Affairs on behalf of John Headley Director of Finance and Information Valerie Howell Deputy Chief Executive
Date:	13 January 2011
Decision:	For noting

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

TRUST BOARD
27th January 2011

Compliance Framework

Introduction

The Trust was authorised with effect from 1st December 2010 and with effect from that date falls within Monitor's Compliance Framework.

Monitor updates its Compliance Framework annually and is currently consulting on changes to the regime for the financial year 2011-2012. (detailed in a separate Board paper but which includes the introduction of quality governance and changes to the governance risk rating methodology).

Therefore the approach outlined below will need to be updated to reflect the results of consultation. Previous versions of the Compliance Framework have been issued in March so this local framework will operate for that period. It is likely the Quarter 4 submissions due on 30 April and the Annual Plan with associated self certification will be under the updated Compliance Framework.

The procedure was reviewed by the Audit Committee on 19th January 2011.

Submitted by:	Jane Gear Head of Corporate Affairs on behalf of John Headley Director of Finance and Information Valerie Howell Deputy Chief Executive
Date:	13 January 2011

Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

Compliance Framework Procedure

Document Author:	Jane Gear Head of Corporate Affairs
Version	V0.3 January 2011
Ratifying Committee	
Date Approved:	
Review Date:	One Year

1 Introduction

2 Overview of the Compliance Framework

3 In year Monitoring

4 Risk ratings

5 Self certification

6 Submissions

7 Ad Hoc reporting

8 Quarterly submissions

9 Roles and responsibilities

Part A In year Monitoring

Part B Annual Self certifications

Part C Authorisation- check list of compliance

Appendix 1 Targets and Indicators

Appendix 2 Example of In year self certificate

Appendix 3 Risks to compliance

1 INTRODUCTION

As an authorised Foundation Trust the Board needs to be confident that robust arrangements are in place to ensure

1) Compliance with the Terms of its Authorisation

and

2) Compliance with the requirements of Monitor's Compliance Framework (issued annually).

2 OVERVIEW OF COMPLIANCE FRAMEWORK

Monitor uses a 'trust based' regulatory framework based on a philosophy of 'no surprises' and open communication.

The Compliance Framework covers three aspects:

1. The Annual Plan review
2. In year monitoring
3. Escalation and intervention

Monitor's regulatory principles are described as

- Self regulation
- Proportionality
- Transparency
- Trust based
- Confidentiality
- Minimal duplication with other regulation
- Minimal information requirements

3 IN-YEAR MONITORING

Monitor have designed this to measure and asses actual performance against the Annual Plan. The frequency and depth of in-year monitoring is determined by the Foundation Trust's risk rating.

Failure to comply with a Foundation Trust's authorisation will be judged by the statutory test of significance.

As a new Foundation Trust, Ashford and St Peter's will be automatically subject to quarterly monitoring for the first two years.

4 RISK RATINGS

Two ratings are given by Monitor: Finance and Governance.

4.1 Finance

The Financial Risk Rating (FRR) is derived from looking at

1. Achievement of plan
2. Underlying performance
3. Financial efficiency

4. Liquidity

4.2 Governance

Includes:

Performance against national targets and indicators (appendix 1)
CQC Registration
Provision of mandatory goods and services.

The governance scoring methodology is as follows:

Green=	A score of less than 0.9
Amber-green=	A score from 1.0-1.9
Amber-red=	A score from 2.0-2.9
Red=	A score of 3.0 or more

Each of the national performance targets has a threshold for achievement and a weighting.

In addition:-

1. A CQC Registration which has moderate or major concerns regarding safety is given a risk rating in a range from 1.0- 4.0.

2. If a Trust self-certifies a risk on the ongoing provision of mandatory services either in the Annual Plan or in-year, this will result in a score of 4.0 (and red rating) for the purposes of the governance risk rating.

5 SELF-CERTIFICATION

Much of the process revolves around self- certification.

Where Monitor finds a significant disparity between a Foundation Trust's self-certification and actual delivery against service performance obligations, Monitor is likely to explore the basis for the Board's self-certification.

An example of the self-certification document is given as Appendix 2.

6 SUBMISSIONS

Monitor supply an electronic template for completion and then authorisation by the Board. This is then submitted via Monitor's electronic Mars portal.

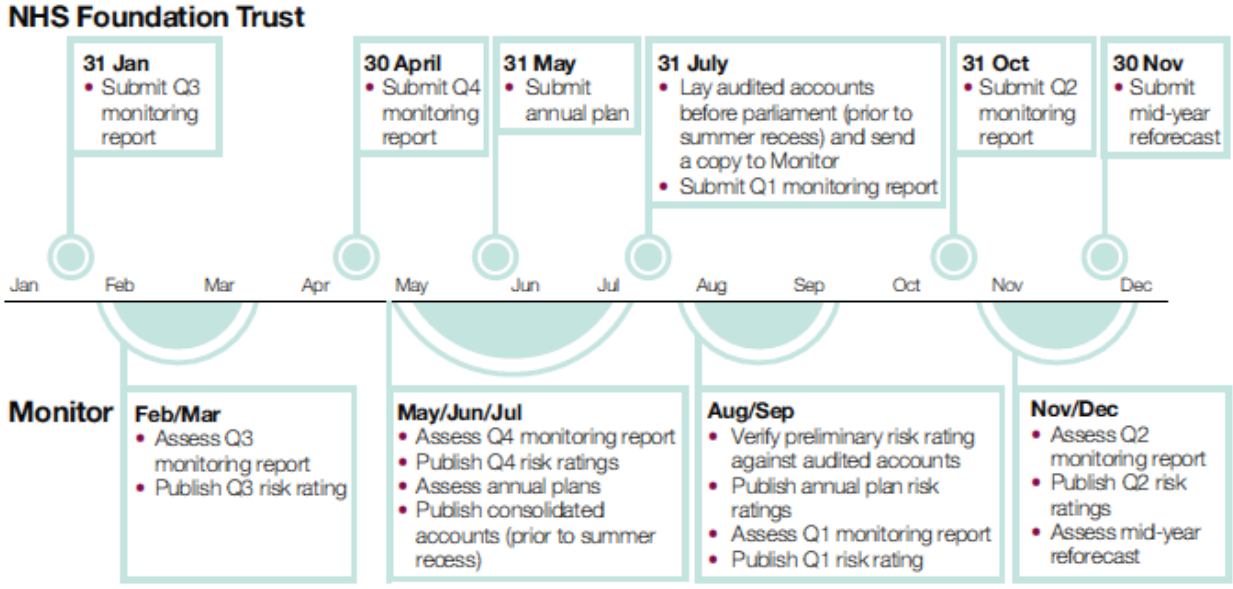
7 AD HOC REPORTING

There are a number of exceptional items which need to be reported to Monitor as and when they occur. Responsibility for identifying them is given in Appendix 3. The final decision that they are appropriate to refer to Monitor lies with the Chief Executive.

8 QUARTERLY SUBMISSIONS

Are required as follows:

Diagram 1: **Annual planning and monitoring cycle**



On a quarterly in arrears basis this includes

Self certification on Governance and Finance
Data submission on Performance Targets (Appendix 1)
Financial risk assessment.

See example report at Appendix 2

9 ROLES AND RESPONSIBILITIES

9.1 Audit Committee

Oversees the timetable for the quarterly and annual submissions.

9.2 Director of Finance and Information

- Final authorisation on the completion of the financial quarterly template prior to submission to the Board
- Preparing the recommendation to the Board on the quarterly self-assessment on the Trust's FRR.
- Final authorisation on the completion of the annual financial template prior to submission to the Board
- Authorisation of the dispatch of the electronic quarterly and annual return to Monitor post approval by the Board
- To identify any relevant exceptional items for reporting to Monitor (Appendix 3)

9.3 **Deputy Chief Executive**

- Final authorisation on the completion of the performance data in the quarterly template prior to submission to the Board
- accountability for preparation and presentation of the annual plan
- Final authorisation on the completion of the annual performance template prior to submission to the Board
- To identify any relevant exceptional items for reporting to Monitor (Appendix 3)

9.4 **Chief Nurse**

- Responsible for overseeing the processes to support ongoing self-assessment against the CQC requirements for registration.
- To identify any relevant exceptional items for reporting to Monitor (Appendix 3)

9.5 **Associate Director of Informatics**

- Preparation of the monthly report against the Compliance Framework (Healthcare Targets) for the Board.
- Preparation of the quarterly and annual data submission on the compliance framework (Healthcare Targets) for authorisation by the Deputy Chief Executive prior to submission to the Board.

9.6 **Deputy Director of Finance**

- Preparation of the monthly finance report for the Finance Committee and Board.
- Preparation of the quarterly and annual data submission on the financial risk indicators for authorisation by the Director of Finance prior to submission to the Board.
- Dispatch of the electronic quarterly and annual return to Monitor following approval by the Board and as authorised by the Director of Finance and Information.

9.7 **Head of Corporate Affairs**

- Compilation of the membership and governance data for the quarterly submission.
- Affirm that the quarterly submission has been sent via the MARS portal

- Coordinate the collation and production of the templates at A/B/C below ensuring timetables are adhered to, to meet the Monitor requirements for submission dates

10. OVERALL TIMETABLE: QUARTERLY SUBMISSIONS

Submission date		**Board date**	**TEC date**	**Finance committee date**
31 January	Q3	27 January		19 January
30 April	Q4	28 April	25th March	20 April
31 July	Q1	28 July	22nd July	20 July
31 October	Q2	27October	23rd Sept /14 October	19 October

11. OVERALL TIMETABLE: ANNUAL PLAN SUBMISSION

Audit	23 March
IGAC	6 April
TEC	6 May
Finance	18 May
Board	26 May
Submission	31 May

Part A

IN YEAR MONITORING

This comprises:

	Executive lead	Evidence	Assurance through
Self certification that all healthcare targets and indicators have been met (after the application of thresholds) over the period and that plans are in place to ensure that all known targets will be met/continue to be met during 2010/11	VH	Via monthly balanced scorecard and compliance framework report. To include trajectories where performance dips	TEC
Self certification that the Board considers the NHS Foundation Trust will continue to maintain a financial risk rating of at least 3 over the next 12 months	JH	Balanced scorecard Detailed Finance Committee report	Finance Committee
Results of any elections including turnout rates	JG	Independent Returning Officer	
Report of any changes in the Board or Council of Governors	JG		Trust Board

PART B

MONITOR ANNUAL SELF-CERTIFICATION REQUIREMENTS (Subject to the outcome of current Monitor Consultation)

Board meetings in May (i.e. 26th May 2011)

Year 1 (May 2011) Process

- To be populated from detailed self assessment/self certification completed during authorisation process (JG to circulate)
- Executive Director to review and amend prior to submission to assurance committee
- Assurance committee to review and recommend position to Board
- Head of Corporate Affairs to produce single report for Board to review

Year 2

Thorough review and evolution of the content of the template

	(Appendix D3 from Compliance Framework)	**Executive Lead**	**Evidence**	**Assurance**	**Assurance Body**	**Assurance Body meeting date**
	Clinical quality					
1	The board is satisfied that, to the best of its knowledge and using its own processes (supported by Care Quality Commission information and including any further metrics it chooses to adopt), its NHS foundation trust has, and will keep in place, effective arrangements for the purpose of monitoring and continually improving the quality of healthcare provided to its patients;	SR/MB	(Needs to address the 6 specific Monitor tests ##)		CGC IGAC	6 April
2	The board is satisfied that, to the best of its knowledge and using its own processes, plans in place are sufficient to ensure ongoing compliance with the Care Quality Commission's registration requirements; and	SR			IGAC	6 April

3	The board is satisfied that processes and procedures are in place to ensure that all medical practitioners providing care on behalf of the NHS foundation trust have met the relevant registration and revalidation requirements.	MB				
	Mandatory services					
4	The board is satisfied that it expects its NHS foundation trust to be able to continue to provide the mandatory services specified in Schedule 2 and Schedule 3 of its Authorisation	VH			TEC	6th May
	Service performance					
5	The board is satisfied that plans are in place are sufficient to ensure ongoing compliance with all existing targets (after the application of thresholds), and compliance with all targets due to come into effect during 2011/12.	VH			TEC	6th May
	Risk management					
6	Issues and concerns raised by external audit and external assessment groups (including reports for NHS Litigation Authority assessments) have been addressed and resolved. Where any issues or concerns are outstanding, the board is confident that there are appropriate action plans in place to address the issues in a timely manner;	SR			IGAC	6 April
7	All recommendations to the board from the audit committee are implemented in	JH			Audit Committee	(probably April)

	a timely and robust manner and to the satisfaction of the body concerned;					
8	The necessary planning, performance management and risk management processes are in place to deliver the annual plan;	VH			TEC	6th May
9	A Statement of Internal Control ("SIC") is in place, and the NHS foundation trust is compliant with the risk management and assurance framework requirements that support the SIC pursuant to the most up to date guidance from HM Treasury	JH			Audit Committee	
10	The trust has achieved a minimum of Level 2 performance against the requirements of their Information Governance Statement of Compliance (IGSoC) in the Department of Health's Information Governance Toolkit; and	JH			IGAC	6 April
11	All key risks to compliance with their Authorisation have been identified and addressed	SO/JG			IGAC	
	Compliance with the Terms of Authorisation					
12	The board will ensure that the NHS foundation trust remains at all times compliant with their Authorisation and relevant legislation;	JG	(See table below)		IGAC	6th May
13	The board will ensure that the NHS foundation trust will, at all times, have regard to the NHS constitution;	JG			IGAC	6 April
14	The board has considered all likely future risks to compliance with their Authorisation, the level of severity and likelihood of a breach occurring and				IGAC	6 April

	the plans for mitigation of these risks;					
15	The board has considered appropriate evidence to review these risks and has put in place action plans to address them where required to ensure continued compliance with their Authorisation; and				IGAC	6 April
16	For an NHS foundation trust engaging in a major joint venture, or any Academic Health Science Centre, the board is satisfied that the NHS foundation trust has fulfilled, or continues to fulfil, the criteria set out in Appendix D4 of the Compliance Framework.	AL			TEC	
	Board roles, structure and capacity					
17	The board maintains its register of interests, and can specifically confirm that there are no material conflicts of interest in the board;	JG			Trust Board	April 2011
18	The board is satisfied that all directors are appropriately qualified to discharge their functions effectively, including setting strategy, monitoring and managing performance, and ensuring management capacity and capability;	RB			WSSG	
19	The selection process and training programmes in place ensure that the non-executive directors have appropriate experience and skills;	RB			WSSG	
20	The management team have the capability and experience necessary to deliver the annual plan; and	RB			WSSG	
21	The management structure in place is	RB			WSSG	

	adequate to deliver the annual plan objectives for the next three years.					
	Additional items from 'Targets and Indicators'					
22	Self-certification against compliance with requirements regarding access to healthcare for people with a learning disability (19)	SR			Equality and Diversity Group	19 May
23	Self certification on compliance with MRSA screening policy	SR (ICT)				Via Infection Control Committee

6 specific tests (P16 of the Compliance Framework)
Describe objectives for improving quality
Identify metrics to monitor quality
Have systems in place to monitor, audit and improve quality Comply with all legislation and identify risks and shortfalls
Maintain governance systems to report on cleanliness, patient safety and experience.
Maintain and develop procedures to challenge performance quality and patient safety
Maintain a programme of internal audit review and independent assurance that supports the self certification process

PART B

AUTHORISATION- CHECKLIST OF COMPLIANCE (PART OF ANNUAL PLAN SELF CERTIFICATION)- to underpin item 11 in Appendix A

To be completed by Head of Corporate Affairs with discussion with relevant Executive Directors. Then submitted to IGAC

	Yes	No	
Healthcare standards- comply with arrangements for the purpose of monitoring and improving the quality of healthcare provided by the Trust			
Mandatory goods and services-confirmation of provision			
Mandatory Education and Training services- confirmation of provision			
Up to date Register of goods and services			
Does the trust carry out research? Has Board confirmed to Monitor that there is sufficient capability and capacity and that this will not inhibit the provision of mandatory goods?			
Has the trust maintained an asset register of protected property? Is it available for inspection			
Is the proportion of total income derived from private healthcare within the cap of 2.2%			
Are the trust's borrowings within the limit set by Monitor(max long term borrowing £25.5 m, working capital facility not to exceed £15m)			
Financial Viability :Can the Board confirm that the trust remains a going concern			
Can the trust pay annually to the DoH a dividend as defined by relevant accounting standards			
Representative membership			

Cooperating with other bodies- can the Board confirm it has cooperated with PCTs, the SHA, CQC, NHS FOUNDATION TRUSTs and local LAs			
Emergency planning- the trust must assists with, and participate in, local and national planning and provision			
Participation on the national programme for Information technology			
The Trust must establish an audit committee of NEDs to perform such monitoring, reviewing and other functions as appropriate. On member must have financial experience			
The trust shall comply with the Audit Code			
Public Interest reporting- Has the trust received any public interest reports from its auditor? Has the trust forwarded a copy of any such report to Monitor within 30 days of the auditor issuing it?			
Has the trust complied with any direction from Monitor in respect of the Cooperation & Competition Panel			

Appendix 1

Table 1: **Targets and indicators, thresholds, weightings and monitoring periods for 2010-11**

	Threshold (1)	Weighting	Monitoring Period
Acute targets – national requirements			
Clostridium difficile year on year reduction (to fit the trajectory for the year as agreed with PCT – assumed a 15% reduction if no level agreed in contract)	0	1.0	Quarterly
MRSA – meeting the MRSA objective (2)	0	1.0	Quarterly
All cancers: 31-day wait for second or subsequent treatment comprising **either:**		1.0	Quarterly
surgery	94%		
anti cancer drug treatments	98%		
radiotherapy (from 1 Jan 2011)	94%		
All cancers: 62-day wait for first treatment , comprising **either:**		1.0	Quarterly
from urgent GP referral to treatment	85%		
from consultant screening service referral	90%		
Maximum time of 18 weeks from point of referral to treatment in aggregate and by speciality for admitted patients :	90%	1.0 (0.5 for 3 or more specialties)	Quarterly
Maximum time of 18 weeks from point of referral to treatment in aggregate and by speciality for non-admitted patients :	95%	1.0 (0.5 for 3 or more specialties)	Quarterly
Acute targets – minimum standards			
All cancers: 31-day wait from diagnosis to first treatment	96%	0.5	Quarterly
Cancer: two week wait from referral to date first seen , comprising **either:**		0.5	Quarterly
all cancers	93%		
for symptomatic breast patients (cancer not initially suspected)	93%		
Screening all elective in-patients for MRSA	100%	0.5	Quarterly
Maximum waiting time of four hours in A&E from arrival to admission, transfer or discharge	98%	0.5	Quarterly
People suffering heart attack to receive thrombolysis within 60 minutes of call (where this is the preferred local treatment for heart attack)	68%	0.5	Quarterly
All acute and mental health NHS foundation trusts			
Self-certification against compliance with requirements regarding access to healthcare for people with a learning disability	N/A	0.5	Annual

Appendix 2

Example in year Monitor certification

Ashford and St Peters NHS Foundation Trust

In Year Governance Declaration

Quarter 2 2010/11 (01 July 2010 to 30 September 2010)

NHS foundation trusts must confirm compliance with their Authorisation in relation to all healthcare targets and indicators listed in Appendix B of Monitor's '*Compliance Framework 2010-11*' issued in March 2010. No supporting detail is required unless compliance cannot be confirmed.

Please state the Board's declaration of its Governance Risk Rating in the box below:

Governance Risk Rating:	GREEN	*(calculated on sheet **Targets and Indicators**)*

Please sign **one** of the two declarations below.
If you sign declaration 2, provide supporting details on the 'Targets and Indicators' worksheet.

DECLARATION 1

The Board confirms that all healthcare targets and indicators have been met (after the application of thresholds) over the period and that plans in place are sufficient to ensure that all known targets and indicators, including those which will come into force during 2010-11 will be met/continue to be met.

Details of any elections held (including turnout rates) and any changes in the Board or board of Governors are included in this return.

Signed: Signature Here

On behalf of the Board of Directors

Acting in Capacity as: [Please type here]

DECLARATION 2

For one or more targets the Board cannot make Declaration 1 and has provided relevant details on worksheet "**Targets and Indicators**" in this return. The Board confirms that all other healthcare targets and indicators have been met over the period (after the application of thresholds) and that sufficient plans are in place to ensure that all known targets and national core standards that will come into force will also be met.

Details of any elections held (including turnout rates) and any changes in the Board or board of Governors are included on worksheet "**Board Changes and Elections**" in this return.

Signed:

On behalf of the Board of Directors

Acting in Capacity as: [Please type here]

NB no additional pages are required

Note: Monitor will accept either an electronic signature or a hand written signature on this declaration

Ashford and St Peters NHS Foundation Trust

In Year Finance Declaration

Quarter 2 2010/11 (01 July 2010 to 30 September 2010)

NHS foundation trusts must certify future financial risk ratings as set out in paragraph 89 of the *Compliance Framework* issued by Monitor in March 2010.

Please sign **one** of the two declarations below.

DECLARATION 1

The Board anticipates that the trust will continue to maintain a financial risk rating of at least 3 over the next 12 months.

Signed: Signature Here

On behalf of the Board of Directors

Acting in Capacity as: [Please type here]

DECLARATION 2

The Board cannot make Declaration 1 and has provided relevant details on documents accompanying this return.

Signed: _____

On behalf of the Board of Directors

Acting in Capacity as: [Please type here]

Note: Monitor will accept either an electronic signature or a hand written signature on this declaration

Green
Amber-Green
Amber-Red
Red

Monitor Public register alphabetic list of FTs

Please list any Corrections/ Changes required to the above data

	Role	Date of change	Tenure	Full Name	Telephone
example	*Other Director*	*01/05/2010*	*Acting*	*Mr Stephen Smith*	*01234 567890*

Governor Changes *(since last return)*

	Constituency Type	Date of change	Reason	Full Name
example	*Public*	*01/05/2010*	*Won Election*	*Ms Jane Jones*

Elections Held *(since last return)*

	Constituency Type	Date of election	Number of candidates	Number of Votes cast	Turnout
example	*Public*	*01/05/2010*	*4*	*1,345*	*16.3%*

Followed by

Re Reported Statement of Comprehensive Income for ASHFORD

Re Reported Statement of Financial Position for ASHFORD

ported Reported Cash Flow Statement for ASHFORD

S Quarterly high level explanation of variance against plan for ASHFORD

Risk Ratings based on in year financial return from ASHFORD

Financial summary as at Q2 for ASHFORD

Risk to compliance: Reported by exception:

	Lead Director
Finance	
▪ Unplanned significant reduction(s) in income or significant increase(s) in costs	Director of Finance and Information
▪ Requirement for working capital in breach of PBL limits	Director of Finance and Information
▪ Failure to comply with the *NHS Foundation Trust Annual Reporting Manual*	Director of Finance and Information
▪ Discussions with external auditors which may lead to a qualified audit report	Director of Finance and Information
▪ Major investments that could affect the FRR or result in an investment adjustment	Director of Finance and Information
Governance	

▪ Events suggesting material issues with governance processes and structures, e.g.

1. Removal of director(s) for abuse of office	Director of Workforce and OD
2. Failure or likely failure to meet healthcare targets over the quarter	Deputy Chief Executive
3. Significant non-contractual dispute with an NHS body	Director of Finance and Information
• Adverse report from internal auditors	Director of Finance and Information
• Other patients safety issues which may impact the authorisations e.g. serious incidents Monitor relationship manager suggest using DoH definition. This is probably the NPSA definitions given below	Chief Nurse/ Medical Director
• Relevant third party investigations e.g., fraud, any relevant Care Quality Commission reviews, investigations or studies	
• Reporting of breaches in information governance	Director of Finance and Information
Mandatory services	
• Proposals to vary mandatory service provision or dispose	Deputy Chief Executive

of assets • Loss of accreditation of a mandatory service	
In addition	
▪ Explanations for qualified or missing self-certifications for any item from list above	
▪ Breach of any Authorisation requirement	All plus Head of Corporate Affairs
▪ Proposals to vary the authorisation	Chief Executive

1.2. Definition of a serious incident requiring investigation

A serious incident requiring investigation is defined as an **incident** that occurred in relation to **NHS-funded services and care** resulting in one of the following:

- **Unexpected** or **avoidable** death of one or more patients, staff, visitors or members of the public;
- **Serious harm** to one or more patients, staff, visitors or members of the public or where the outcome requires life-saving intervention, **major surgical/medical** intervention, **permanent harm** or will shorten life expectancy or result in **prolonged pain or psychological harm** (this includes incidents graded under the NPSA definition of severe harm);
- A scenario that prevents or threatens to prevent a provider organisation's ability to continue to deliver healthcare services, for example, actual or potential loss of personal/organisational information, damage to property, reputation or the environment, or IT failure;
- Allegations of **abuse**;
- Adverse media coverage or public concern about the organisation or the wider NHS;
- One of the core set of 'Never Events' as updated on an annual basis and currently including:
  - wrong site surgery
  - retained instrument post-operation
  - wrong route administration of chemotherapy
  - misplaced naso-gastric or orogastric tube not detected prior to use
  - inpatient suicide using non-collapsible rails
  - escape from within the secure perimeter of medium or high security mental health services by patients who are transferred prisoners
  - in-hospital maternal death from post-partum haemorrhage after elective caesarean section
  - intravenous administration of mis-selected concentrated potassium chloride